

JOHN MCCAIN  
ARIZONA

CHAIRMAN  
COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
COMMITTEE ON ARMED SERVICES  
COMMITTEE ON INDIAN AFFAIRS

Bureau of Land Management  
Arizona State Office  
Phoenix, Arizona

United States Senate

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BUREAU OF LAND MGT  
PHOENIX, ARIZONA

May 16, 2003

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Teresa Raml  
Field Manager  
Bureau of Land Management  
21605 N 7th Ave.  
Phoenix, AZ 85027

241 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0303  
(202) 224-2235

4450 SOUTH RURAL ROAD  
SUITE B-130  
TEMPE, AZ 85282  
(480) 897-6289

2400 EAST ARIZONA  
BILTMORE CIRCLE  
SUITE 1150  
PHOENIX, AZ 85016  
(602) 952-2410

450 WEST PASEO REDONDO  
SUITE 200  
TUCSON, AZ 85701  
(520) 670-6334

TELEPHONE FOR HEARING IMPAIRED  
(202) 224-7132  
(602) 952-0170

Dear Teresa:

I wish to bring to your attention the matter concerning my constituent, **Ex. 6** who has encountered a problem with reduction of property size. Please investigate, my constituent's claim, within the existing rules, regulations and ethical guidelines, and provide me with the final decision. MARK ALL CORRESPONDENCE TO:

Attn: Ryan Bailey  
Office of Senator John McCain  
450 W. Paseo Redondo  
Suite 200  
Tucson, Arizona 85701

The response you provide will be most appreciated and will be forwarded to my constituent. If you should have any questions in the meantime, you can reach my office at (520) 670-6334. I look forward to your reply at your earliest convenience.

Sincerely,



John McCain  
United States Senator

JM/trb  
Enclosure(s)

February 26, 2003

Senator John McCain  
241 Russell Senate Office Building  
Washington, D.C. 20510-0303

SUBJECT: Unjust Cloud over Property Title

Dear Senator McCain:

My wife and I purchased property in 1975 at Ex. 6 At the time of purchase, there was a B.L.M. marker dated 1962, which was 55 feet from our property. In 1976 we started building our home on this property. We moved into our home in 1978. We have continued making improvements ever since. We have a deed to the property and pay taxes on the property. We certainly believe this qualifies us for Bona-Fide Rights.

In 1982, the B.L.M. moved the markers on several properties approximately 1500 feet, without the owner's knowledge. Owners became aware of the action and took the B.L.M. and the Mohave Indians to court. The case was won, by the property owners. The B.L.M. appealed to the Secretary of the Interior, who got the case in the Office of Hearing Appeals. The judge of the Office of Hearing Appeals made a decision to change the method of surveying to a method that gave the B.L.M. a big leeway in choosing the new marker location.

The office of Hearing Appeals said there was no provision for an appeal. The new marker placed our property and two other property owners within the Mohave Indians sovereignty.

We can not take the Indians to court. The Indians seem unwilling to take action. Our property has a cloud on it. The property was and is greatly devalued.

In the year 1945, I was flying a B-17 bomber, doing gunnery practice in Yucca, AZ. After the ammunition was expended, I flew over Needles, CA at a time when the Bureau of Reclamation was connecting the channel to a new channel that kept the water from taking out the Santa Fe railroad tracks.

From the point of connection of the new channel, the water had been running and had covered the land of what is now the #1 tee of the Needles Golf Course. Up river along the same path, the old channel still exists. We believe it is obvious that the B.L.M. did not use a correct 90 ° angle as designated by the B.L.M. Office of Hearing Appeals and that the angle used by the B.L.M. is not true. This created an inequitable distribution of property: 1% to Section 15 (property owners) and 30% to Section 10 (Indian land).

How is it possible that the Bureau of Land Management can deny us justice? Is it because of administrative law procedure? After we won the case with a competent court, the B.L.M.

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pleaded to the then Secretary of Interior that a great injustice was being done. Now I would like to appeal to you, there has been a real injustice done to us and several others.

We are denied justice because of a sovereign nation, a nation that we do not belong. They belong to their nation and we to ours.

Twenty eight years ago, my wife and I purchased this property, with a clear title on it. Currently my wife is Ex. 6 I am Ex. 6 Time for a just resolution on this matter is of great essence to us. Justice has not been served yet. I served my country during World War II and the Korean War.

In 9 years our taxes on our property (with a cloud on it) have increased from \$484.26 to \$2,358.56 a year. We expect an increase again this year. We pay these taxes to Mohave County, Arizona, not to the Mohave Indians. This is another reason for my government to create a closure. Please see table below of taxes paid on our property for the last 9 years:

Year	Property Taxes We Paid
1993	484.26
1994	531.96
1995	1,064.04
1996	1,125.88
1997	1,281.16
1998	1,272.80
1999	2,392.44
2000	2,355.56
2001	2,358.56

We would like to get the title cleared or be compensated by the Federal government for the same value of properties in the area that are not under the cloud.

We appreciate any help you can give us in this matter and look forward to your quick response. Thank you for your help.

Sincerely

Ex. 6

Gong  
Ravnikar  
Ineal  
6/6/03  
DeStevens  
6/6/03  
Antueros  
6/9/03  
G. Davis  
6/10/03

1781/9600 (AZ-956)  
Gps. 367 and 731, AZ

June 10, 2003

Mr. Ryan Bailey  
Office of Senator John McCain  
450 W. Paseo Redondo  
Suite 200  
Tucson, Arizona 85701

Dear Mr. Bailey:

This is in response to Senator McCain's letter of May 16, 2003, concerning a title problem encountered by his constituents, Ex. 6. The Ex. 6 claim title to a parcel of land in an area of accretion which formed along the left bank of the Colorado River adjacent to sections 4, 9, 10, 15, 23, and 24, of Township 17 North, Range 22 West, Gila and Salt River Meridian, Arizona.

Ex. 6 claim title to a parcel of land described as being located in "Accretion Lands of Section 15" of Township 17 North, Range 22 West. The Ex. 6 acquired their parcel by virtue of a Joint Tenancy Deed from the Rio Colorado Development Company in 1975.

Specifically at issue is the position of the division of accretion line between sections 10 and 15, as determined by a 1991 Bureau of Land Management (BLM) survey. Although the issue is complicated, the following historical and technical information outlines the events leading to the 1991 survey.

Township 17 North, Range 22 West was originally surveyed by John J. Fisher, United States Deputy Surveyor, in 1905. In 1961, under Special Instructions for Group 367, Arizona, Norville Shearer, BLM Project Engineer for the Lower Colorado River Cadastral Survey Project, began conducting a dependent resurvey and survey of the accretion lands in Townships 17 and 18 North, Range 22 West, at the request of the Bureau of Indian Affairs. Mr. Shearer suspended survey operations on this project in 1962, due to litigation involving accretion lands west of sections 27, 28, 33, and 34, Township 18 North, Range 22 West, which culminated in the Ninth Circuit Court ruling in Sherrill v. McShan, 356 F. 2d 607 (1966).

The **Ex. 6** deed description is with reference to certain monuments established by Norville Shearer for the division of accretion line between sections 10 and 15 in the incomplete and unapproved survey of 1961-62. Shearer had determined this line by the proportionate shoreline method, based in part on a northerly zero accretion point in section 28, Township 18 North, Range 22 West.

In 1982, Paul L. Reeves, BLM Cadastral Surveyor, resumed the project of surveying the accreted lands in Township 17 North, Range 22 West, at the request of the Bureau of Indian Affairs. Due to the decision in the aforementioned case of Sherrill v. McShan, which determined that the area where Shearer established his northern zero accretion point was created by an avulsive change rather than accretion, Reeves rejected Shearer's partition line between sections 10 and 15. Instead, a line established in 1961 by Mr. Nelson Myer, a private land surveyor, at a point normal to the Colorado River as it existed prior to channelization in the 1950's, was accepted.

Reeves' survey was accepted and officially filed on September 16, 1982. Subsequently, First American Title Insurance Company, the provider of title insurance for certain landowners in the affected area, including the **Ex. 6** protested the survey.

The BLM dismissed First American's protest by decision dated February 19, 1985. First American appealed the decision to the Interior Board of Land Appeals (IBLA). There followed a series of administrative review proceedings, focusing on the legal and technical merits of the two methods of dividing accretion, i.e., proportionate shoreline vs. perpendicular to the bank. These proceedings culminated in a decision by the Director, Office of Hearing and Appeals (OHA), dated March 26, 1991.

The Director's decision, which is considered final with respect to the Department of the Interior, determined that the perpendicular method was appropriate, but that Myer's monument was not within the allowable limit of error, and remanded the case to BLM to prepare a corrective survey of the accretion line between sections 10 and 15 in a directed manner.

Under Special Instructions for Group No. 731, Arizona, dated June 10, 1991, a survey of the partition line between sections 10 and 15 was conducted in accordance with the Director's decision. To date, there has been no indication that First American Title Insurance Company intends to pursue this case further.

**Ex. 6** implies that this survey did not use the abandoned channel of the Colorado River as it existed prior to channelization to determine the partition line at a right angle (normal). The position of the abandoned channel was determined from evidence in the field and facts obtained from the unapproved 1961-62 resurvey. The partition line established in the 1991 survey was constructed normal to the left bank of the abandoned channel as determined.

Additionally, we would like to clarify BLM's role in this issue. The BLM Cadastral Survey program is responsible for creating, restoring, marking and defining the boundaries of all Indian Trust land and Federal surface and subsurface interests. BLM's Cadastral Survey program has the sole responsibility for the official boundary surveys of all Federal agencies.

Once the cadastral survey was completed and approved in accordance with the decision of the Director, OHA, the BLM had no further authority or reason to pursue the case. Section 10 is part of the Fort Mohave Indian Reservation and the subject land is under the jurisdiction of the Bureau of Indian Affairs.

Enclosed are copies of the final decision of the Director, OHA, and the Special Instructions for Group No. 731, with pertinent parts highlighted for the reader's convenience, as well as sheet 1 of the plat of survey approved September 16, 1982, and the plat approved June 28, 1991.

Because of the complex and technical nature of this cadastral survey issue, we would be happy to meet with your staff to explain the enclosed information and answer any additional questions. Please call Ex. 6 at (602) 417-9576 for additional assistance.

Sincerely,

/s/ Carl Rountree

for Elaine Y. Zielinski  
State Director

Enclosures : Previously sent with identical letter dated April 8, 2003  
to Congressman Trent Franks

cc: Your Washington Office